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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,099	07/05/2005	Mirco Rossetti	P-US-PR-1080	1117

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EXAMINER

BREAN, LAURA MICHELLE

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/517,099	ROSSETTI ET AL.	
	Examiner	Art Unit	
	Laura M. Brean	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-6,8-13 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-13 and 15-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1,3-6,8-10,12,13, 15-23 have been considered but are moot in view of the new ground(s) of rejection.

2. Furthermore, in regards to applicant's arguments filed 6/15/2006 in regards to claims 2 and 11, as being anticipated by Batson (U.S. Patent 4,245,533) as obvious over Wixey (U.S. Patent 6,289,778), are not persuasive. Wixey's priority date (9/18/2001) is more than a year before the applicant's priority date of 06/04/2003 and qualifies as prior art under 35 USC 102(b) and is therefore not dismissible under 35 USC 103(c). Additionally, Wixey is a C.I.P of related U.S. Patent 5,988,031, published on 11/23/1999.

Claim Objections

3. Claim 1 is objected to because of the following informalities:

Claim 1, line 8, "the cutting so that" should be -- the cutting line so that--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3724

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,3-6,21-23 are anticipated 102(b) as anticipated by Chen (U.S. Patent 5,483,858). Chen discloses a miter saw comprising: a base (11) comprising a working surface; a saw assembly pivotally connected to the base, the saw assembly comprising a blade (10), the blade being movable in a first cutting plane (shown by the arrow), the cutting plane intersecting the working surface along a first cutting line (12); and an adjustable elongated fence (clamping plate, 28; Figure 4) mounted on and supported by the working surface, the fence being angularly displaceable relative to the first cutting line via knob 210 (Figures 4 and 5), and longitudinally adjustable along the cutting line so that the fence is disposable in a first position defining a first plane supporting a workpiece and a second position defining a second plane supporting the workpiece, the first and second planes being substantially parallel via bolt 215 and holes 220 (Figures 2-4).

In regards to claim 3, Chen discloses wherein the working surface is non-adjustably mounted on the base.

In regards to claim 4, Chen discloses wherein the working surface comprises a recessed channel (saw dust slot, 12)

In regards to claim 5, Chen discloses wherein the fence (28) comprises at least one releasable restraining member (knob, 210) for restraining the fence to the work surface in a plurality of angularly adjusted orientations relative to the cutting line.

In regards to claim 6, Chen discloses wherein the fence comprises a restraining member comprising a first member (bolt, 215) disposed in the working surface and threadingly engaged to a second member (seat, 205) disposed on the fence.

In regards to claim 21, Chen discloses wherein the working surface comprises an array of first engagement means (plurality of locating holes, 217) for cooperative releasable engagement with at least one second engagement means (knob, 210) on the fence for restraining the fence on the working surface at a predetermined angular inclination relative to the cutting line, wherein engagement of the second engagement means with a different one of the array of first engagement means (217) restrains the fence(28) in a second predetermined angle relative to the cutting line (Figure 2).

In regards to claim 22, Chen discloses wherein the first engagement means comprises an array of holes (217) in the working surface and the second engagement means comprises at least one projection member (210) for engagement with one of the array of holes.

In regards to claim 23, Chen discloses wherein the projection member is longitudinally adjustable along the fence.

6. Claims 1, 8-10, 15-20 are 102(b) as anticipated by Chen (U.S. Patent 5,483,858). Chen discloses a miter saw comprising: a base (11) comprising a working surface; a saw assembly pivotally connected to the base, the saw assembly comprising a blade (10), the blade being movable in a first cutting plane (shown by the arrow), the cutting plane intersecting the working surface along a first cutting line (12); and an adjustable

elongated fence (formed by clamping plate, 28 and stop plate, 31; Figure 4) mounted on and supported by the working surface, the fence being angularly displaceable relative to the first cutting line via knob 210 (Figures 4 and 5), and longitudinally adjustable along the cutting line so that the fence is disposable in a first position defining a first plane supporting a workpiece and a second position defining a second plane supporting the workpiece, the first and second planes being substantially parallel via bolt 215 and holes 220 (Figures 2-4).

In regards to claim 8, Chen discloses wherein the fence (28/31) extends over the cutting line (12) (Figure 4).

In regards to claim 9, Chen discloses wherein the fence (28/31) comprises a recess (not identified) for overlying the cutting line in the working surface (Figure 4).

In regards to claim 10, Chen discloses wherein the fence comprises at least two separate elongated sections, each section presenting a support face capable of extending perpendicular to the working surface and lying in a same fence plane, with the recess formed by a break between said separate sections.

In regards to claim 15, Chen discloses wherein the working surface comprises a first guide track (sliding slot, 35) and the fence (28/31) comprises a first track follower (screw, 34) in cooperative sliding engagement therewith.

In regards to claim 16, Chen discloses wherein the working surface comprises a second track (row of holes, 220) and the fence comprises a second track follower member (screws, 215) for respective cooperating engagement therewith.

In regards to claim 17, Chen discloses wherein the first track follower member (34) is longitudinally adjustable along the fence via sliding slot 35.

In regards to claim 18, Chen discloses wherein the first track (35) is linear.

In regards to claim 20, Chen discloses wherein the fence (28/31) is pivotally mounted about the first track follower member via thumbscrews, 32.

7. Claims 1, 3-6, 8-10, 12,13, 16-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Myhre (U.S. Patent 4,464,962). Myhre discloses a miter guide device but does not disclose that is it used with a miter saw, per se, but rather with a table saw. However, since the table saw is being used with a miter guide device that allows the table saw to perform a miter cut, it is in effect also a "miter saw." Therefore, Myhre discloses a miter saw comprising: a base (work surface, 10) comprising a working surface; a saw assembly pivotally connected to the base, the saw assembly comprising a blade (11), the blade being movable (rotatable) in a first cutting plane the cutting plane intersecting the working surface along a first cutting line (along the blade's radial axis); and an adjustable elongated fence (20,21) mounted on and supported by the working surface (10), the fence being angularly displaceable relative to the first cutting line (via screw 37), and longitudinally adjustable (via screw 31) along the cutting line so that the fence is disposable in a first position defining a first plane supporting a workpiece and a second position defining a second plane supporting the workpiece, the first and second planes being substantially parallel. The assembly is capable of being moved in a multitude of parallel positions by rotating the workpiece guide surfaces, 33 and 33A by

Art Unit: 3724

screws 37 until the guide surfaces are parallel to each other and then moving them longitudinally along the work surface by adjusting screws, 31.

In regards to claim 3, Myhre discloses wherein the working surface (10) is non-adjustably mounted on the base.

In regards to claim 4, Myhre discloses wherein the working surface comprises a recessed channel (14)

In regards to claim 5, Myhre discloses wherein the fence (28) comprises at least one releasable restraining member (screws, 37) for restraining the fence to the work surface in a plurality of angularly adjusted orientations relative to the cutting line.

In regards to claim 6, Myhre discloses wherein the fence comprises a restraining member comprising a first member (shaft, 25; Figure 3) disposed in the working surface (10) and threadingly engaged to a second member (screw, 31) disposed on the fence (20,21).

In regards to claim 8, Myhre discloses wherein the fence (20,21) extends over the cutting line (Figure 1).

In regards to claim 9, Myhre discloses wherein the fence (22) comprises a recess (the break between the right end of 33 and the left end of 33A) for overlying the cutting line in the working surface.

In regards to claim 10, Myhre discloses wherein the fence (20,21) comprises at least two separate elongated sections (20,21), each section presenting a support face capable of extending perpendicular to the working surface and lying in a same fence plane, with the recess formed by a break between said separate sections.

In regards to claim 12, Myhre discloses wherein the separate sections (20,21) are interconnected by a rigid support element (22) extending between the separate sections remote from the recess.

In regards to claim 13, Myhre discloses wherein the support element (22) is capable of extending outside the fence plane. When the fence arms 33 and 33A are extended parallel to each other, the common link, 22 will be extended parallel but behind arms 33 and 33A and therefore be outside the fence plane.

In regards to claim 15, Myhre discloses wherein the working surface (10) comprises a first guide track (24) and the fence (20,21) comprises a first track follower (screw, 31) in cooperative sliding engagement therewith.

In regards to claim 16, Myhre discloses wherein the working surface (10) comprises a second track (16) and the fence comprises a second track follower member (screw, 31) for respective cooperating engagement therewith.

In regards to claim 17, Myhre discloses wherein the first track follower member (31) is longitudinally adjustable along the fence via cross arm 27.

In regards to claim 18, Myhre discloses wherein the first track (24) is linear.

In regards to claim 20, Myhre discloses wherein the fence (20,21) is pivotally mounted about the first track follower member via screws 37.

In regards to claim 21, Myhre discloses wherein the working surface (10) comprises an array of first engagement means (plurality of locating holes, 217) for cooperative releasable engagement with at least one second engagement means (knob, 210) on the fence for restraining the fence on the working surface at a

Art Unit: 3724

predetermined angular inclination relative to the cutting line, wherein engagement of the second engagement means with a different one of the array of first engagement means (217) restrains the fence(28) in a second predetermined angle relative to the cutting line (Figure 2).

In regards to claim 22, Myhre discloses wherein the first engagement means comprises an array of holes (217) in the working surface and the second engagement means comprises at least one projection member (210) for engagement with one of the array of holes.

In regards to claim 23, Myhre discloses wherein the projection member is longitudinally adjustable along the fence.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wixey (U.S. Patent 5,988,031). Chen discloses the claimed invention except that the blade is adjustable so as to incline the cutting plane relative to the work surface. However, attention is directed to the Wixey device that shows a miter saw with an adjustable blade so as to include the cutting plane relative to the work surface. The inclined angle allows the blade to make bevel cuts and is necessary in cutting crown

Art Unit: 3724

molding, a common use for miter saws. It would have been obvious to provide for the additional angle of rotation in the Batson device so that the blade could be inclined to the cutting plane relative to the work surface for the added advantage to producing beveled cut in the work piece as valued in crown molding cutting as taught by Wixey.

In regards to claim 11, as previously discussed, since it would have been obvious to modify the Batson device to incorporate the rotatable ability as taught by Wixey to produce beveled cuts in the work surface. It also would have been obvious to modify the fence as taught by Wixey so that the at least one end of the separate sections is inclined longitudinally (38) outwardly of the break so as to accommodate the blade when the cutting plane is inclined relative to the working surface (as shown in Wixey, Figure 1).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 4,995,288 to DellaPolla, U.S. Patent 6,591,724 to Huang, U.S. Patent 4,328,728 to Ferdinand et al., U.S. Patent 5,720,096 to Dorsey all disclose power tools with adjustable fences.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura M. Brean whose telephone number is (571) 272-8339. The examiner can normally be reached on Monday through Friday, 8:00am to 4:30pm.

Art Unit: 3724

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LMB
08/30/2006



BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER